

REMARKS

Rejections Under 35 U.S.C. § 103 and Applicability of 35 U.S.C. § 103(c)

The Examiner has rejected claims 1-9 and 12-14 "under 35 U.S.C. 103(a) as being unpatentable over Chatani et al., US Publication Number 2002/0104019, hereinafter Chatani, in views (sic) of Yaegashi, US Patent Number 6,832,318." *Office Action*, 2.

The Examiner has rejected claims 15-16 and 19-22 "under 35 U.S.C. § 103(a) as being unpatentable over Chatani in views (sic) of Yaegashi, and in further views of Clenaghan et al., US Publication Number 2002/0052816 A1." *Office Action*, 6.

The Examiner has also rejected claims 10-11, 17-18, and 23-30 "under 35 U.S.C. § 103(a) as being unpatentable over Chatani in views (sic) of Yaegashi and Clenaghan and in further views (sic) of Matsuo et al., US Publication Number 2001/0042041 A1." *Office Action*, 8.

The Applicant respectfully traverses all of these rejections as the Applicant hereby informs the Examiner of the common ownership of the Chatani reference and the present application. That is, the Chatani reference and the present application are both assigned to Sony Computer Entertainment America Inc. as reflected by the assignments recorded at Reel 011852, Frame 0405 and Reel 011948, Frame 0654, respectively.

As Chatani qualifies as an asserted prior art reference only under 35 U.S.C. § 102(e), Applicant notes the applicability of 35 U.S.C. § 103(c). Section 103(c) provides, *inter alia*, that when a reference "qualifies as prior art only under [subsection(e)] of section 102," that reference "shall not preclude patentability . . . where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person."

In light of 35 U.S.C. § 103(c), Applicant's representative hereby states as follows:

The subject matter of the *Chatani* reference and the presently claimed invention were, at the time invention was made, owned by and/or under an obligation to assign to the same entity: Sony Computer Entertainment America Inc.

See MPEP § 706.02(l)(3) (concerning sufficiency of this statement in establishing common ownership for the purposes of Section 103(c)). The Applicant further notes that applications and references should be considered by the examiner to be owned by, or subject to an obligation to assign, at the time the invention was made, if the applicant or their attorney makes a statement to this effect. See *Guidelines Setting Forth a Modified Policy Concerning the Evidence of Common Ownership, or an Obligation of Assignment to the Same Person, as Required by 35 U.S.C. 103(c)*, 1241 O.G. 96 (Dec. 26, 2000).

In accordance with 35 U.S.C. § 103(c), the Chatani reference is disqualified as a reference for the purposes of an obviousness rejection under 35 U.S.C. § 103(a) and the Applicant, therefore, contends the Examiner's rejection of claims 1-9 and 12-14 (Chatani + Yaegashi) to have been overcome. The Applicant also contends the Examiner's rejection of claims 15-16 and 19-22 (Chatani + Yaegashi + Clenaghan) to have been overcome. The Applicant finally contends the Examiner's rejection of claims 10-11, 17-18 and 23-30 (Chatani + Yaegashi + Clenaghan + Matsuo) to have been overcome.

CONCLUSION

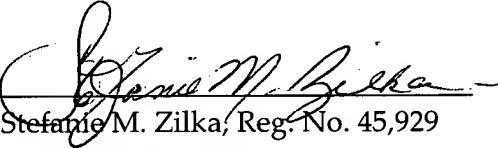
The Applicant has evidenced the applicability of 35 U.S.C. § 103(c) as it pertains to the Chatani reference. Therefore, claims 1-30, for which the Examiner utilizes Chatani as a base reference for a rejection under 35 U.S.C. § 103(a), are allowable.

Based on the foregoing remarks, Applicant respectfully requests the Examiner issue a *Notice of Allowance* for the present application. If the Examiner has any questions concerning the present response, the Examiner is invited to contact Applicant's undersigned representative at the number given below.

Respectfully submitted,
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